

# NETJUMPER SOFTWARE, L.L.C. v. GOOGLE, INC.

Summary Judgment Motion

Hearing

12/14/05

# **NETJUMPER INVENTED PERMANENT NAVIGATION CONTROLS FOR SEARCHING THE INTERNET**

- Every embodiment of the '172 Patent invention is non-transient
- An embodiment that locates navigation controls inside "search window" must be transient

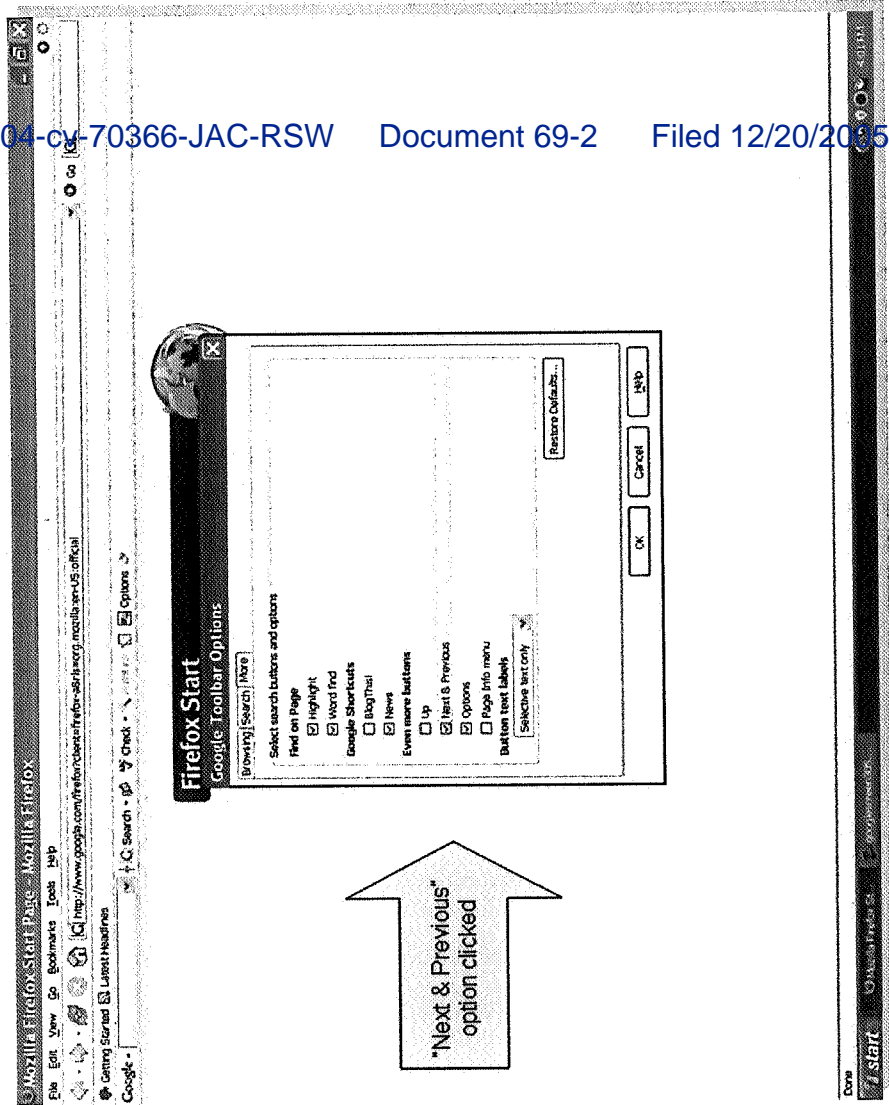
# GOOGLE TOOLBAR: PERMANENT NAVIGATION CONTROLS LOCATED OUTSIDE DISPLAY PANE

Case 2:04-cv-70366-JAC-RSW


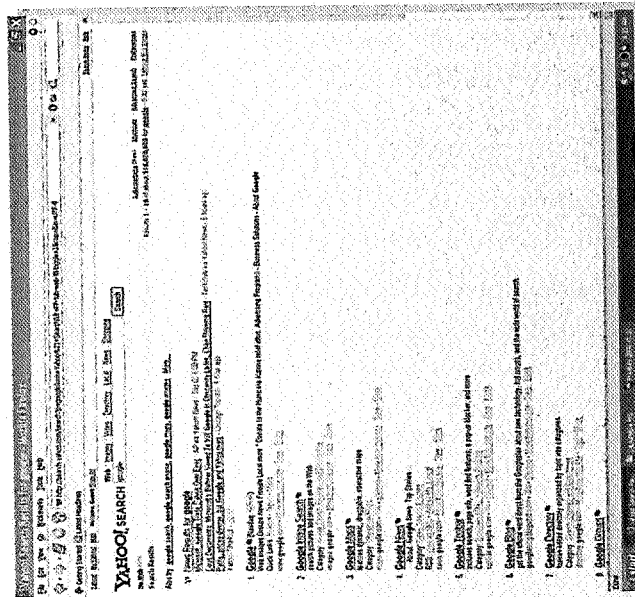
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Area of screen Google wants construed as "search window"

# **SUMMARY JUDGMENT FOR GOOGLE NOT PROPER**

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- “Search window” IS the page display area
- Google’s own expert admits if “search window” is the display pane and not the entire display screen, Google’s Toolbar infringes

# GOOGLE'S TOOLBAR INFRINGES

- Correct Construction of “Search Window” Leads To Denial Of Motion:

- The Federal Circuit’s Recent decision in *Philips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) guides this analysis
- Under *Philips* the Court should look principally to the ‘172 patent, its claims and specification



# GOOGLE'S TOOLBAR INFRINGES

- Correct Construction of “Search Window”:  
What One Of Ordinary Skill In The Art  
Understands From Claim Language,  
Specification, And File History

- *Eolas Corp. v. Microsoft Corp.*, 399 F.3d 1325  
(Fed. Cir. 2005)

# GOOGLE'S TOOLBAR INFRINGES

- “Search Window” → Defined in drawings and written description

## ● Feature 406:

- “Browser view window” – ‘172 Patent, col. 8, ll. 44-45
- “Window for viewing a file” – ‘172 Patent, col. 7, ll. 32-33.



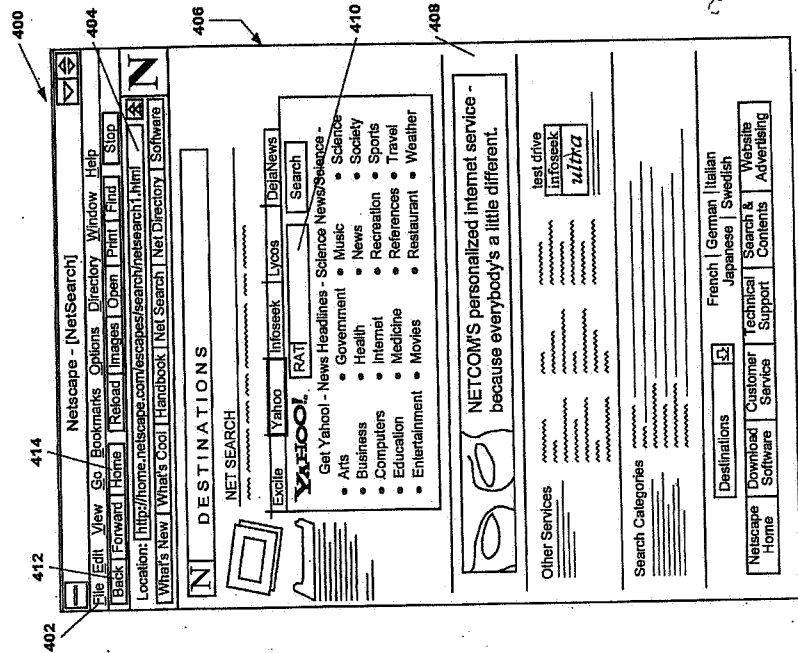
# **GOOGLE SAYS “SEARCH WINDOW” IS FEATURE 400**

- But Feature 400 Is Defined As A “Browser Interface” In The ‘172 Patent

- The ‘172 Patent describes Feature 400 as the “browser interface” – ‘172 Patent, col. 7 ll. 30, 52-53

- The ‘172 Patent drawings show Feature 400 as the entire browser window (Figs. 4, 5A-5C)

# '172 PATENT DEFINES MANY "WINDOWS" INCLUDING FEATURE 406 AS A SUBCOMPONENT OF ENTIRE VIEW SCREEN



(PRIOR ART)  
FIG. 4

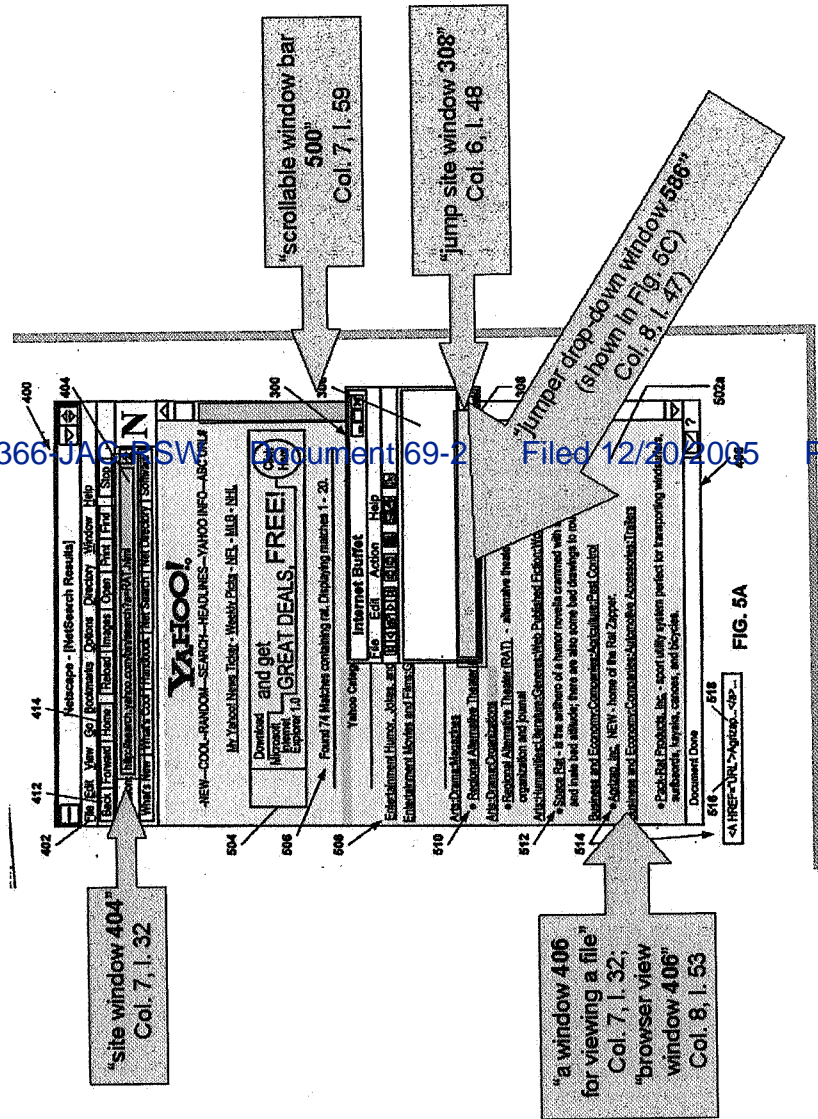


FIG. 5A

# GOOGLE'S TOOLBAR INFRINGES

- No Factual Dispute: '172 Patent Discloses Embodiments that are Identical to the Google Toolbar:

“The user interface may include popup or persistent window, a toolbar, a menu modification of the browser window, a toolbar modification of the browser window, or the use of accelerator keys on the keyboard.”

Col. 7, ll. 22-26

# GOOGLE'S TOOLBAR INFRINGES

- The '172 Patent Is Consistent Throughout:
  - “In another embodiment, the jumper functions are built directly into the browser” (Col. 12, ll.33-34)

# **GOOGLE PROVIDES THE COURT WITH NO CREDIBLE EXPLANATION WHY TWO TERMS MEAN THE SAME THING**

- Google's Expert Hardin's Declaration Is Entirely Conclusory:

- "When I look at this and look at the patent as a whole and the prosecution history as a whole...this is the only interpretation that I can come away with..." (Dep. at p. 37, ll. 2-4).



# GOOGLE'S TOOLBAR INFRINGES

- Netjumper's Expert Galler explains in detail why the meaning to one of ordinary skill in the art from claim language, specification, and file history of the '172 Patent differs from Hardin's "whole" analysis.



# GOOGLE'S TOOLBAR INFRINGES

- Google's Position Entirely Ignores Plain Words and Drawings of the '172 Patent

- Would render separate Feature 400 duplicative of Feature 400 and thus superfluous

- Directly contrary to drawings, particularly Figs. 5A, 5B, and 5C